

EXHIBIT E

The Law Office of Joseph Mauro, LLC
306 McCall Ave.
West Islip, NY 11795

(631) 669-0921
(631) 669-5071 fax

July 24, 2015

Hon. Arthur D. Spatt
Alphonse M. D'Amato Federal Courthouse
100 Federal Plaza
Central Islip, NY 11722

RE: **Annunziato v. Collecto, Inc.**
12 cv 3609

Kalkstein v. Collecto, Inc.
13 cv 262

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.
★ **AUG 05 2015** ★
LONG ISLAND OFFICE

Honorable Judge Spatt,

I represent the Plaintiffs in the above matters. Both of these related cases have been certified as class actions.

Pursuant to the Magistrate Tomlinson's order dated July 10, 2015 (Doc.#45), the parties are hereby jointly requesting that the classes in both cases be pared down to include only consumers who received a letter requesting a collection cost of 42.85%. This change is necessary as discovery has shown that the class as currently written includes students who paid less than 42.85% on student loan accounts (with the collection fee based upon a statute.)

The current class in *Annunziato* matter consists of 484 people. Of this 484 people only 331 received a letter requesting the 42.85 collection fee on overdue tuition. Discovery has shown that 131 of these class members were charged a fee less than the 42.85% on a student loan account. The parties agree that these 131 people should not be in the class. The parties have agreed, and are jointly requesting permission to send these 131 class members a notice indicating that they are no longer class members, and providing a basic explanation of their rights. The proposed notice is attached as Exhibit A. Discovery is complete in this matter.

The current class in the *Kalkstein* matter has not yet been sent their initial notice.¹ As such, the parties are jointly requesting the students in the proposed new class (consisting of 262 consumers who were charged a 42.85% collection cost on a tuition account) be sent their initial notice. The proposed notice is attached as Exhibit B. Defendant will not conduct further

¹ The sending of the notice in the *Kalkstein* matter was delayed due to the untimely passing of the defense attorney Jonathan Elliot shortly after certification was granted. The matter was then further delayed when the parties agreed to attempt to resolve all matters with Judge Tomlinson at the recent settlement conference.

The Law Office of Joseph Mauro, LLC
306 McCall Ave.
West Islip, NY 11795

(631) 669-0921
(631) 669-5071 fax

July 24, 2015

depositions in this matter. Plaintiff still requires some discovery, including potentially a deposition of Defendant.

Hence in the *Annunziato* matter, the parties are jointly requesting that the class definition be amended to read as follows:

All individuals who (a) have mailing addresses within New York State; (b) who between July 19, 2011 and July 19, 2012 (c) were sent a collection letter for tuition alleged to be owed to New York Institute of Technology in a form materially identical or substantially similar to the form letter sent by the Defendant to the Plaintiff; (d) regarding a debt that was time-barred by the applicable statute of limitations; (e) or containing a collection fee that was 42.85% of the principal; (f) which was not returned by the postal service as undelivered.

And in the *Kalkstein* matter, the parties are jointly requesting that the class definition be amended to read as follows:

All individuals who (a) have mailing addresses within New York State; (b) who between July 20, 2012 and April 30, 2013; (c) were sent a collection letter for tuition alleged to be owed to New York Institute of Technology in a form materially identical or substantially similar to the form letter sent by the Defendant to the Plaintiff; (d) regarding a debt that was outside the permissible credit reporting period; (e) or containing a collection fee that was 42.85% of the principal; (f) which was not returned by the postal service as undelivered.

Additionally, the parties are jointly requesting permission to send the two attached notices to the respective classes.

(the remainder of this page is intentionally left blank)

Sincerely,




Joseph Mauro
The Law Office of Joseph Mauro, LLC
306 McCall Ave.
West Islip, NY 1195
For the Plaintiffs



Michael A. Carbone
Zeldes, Needle & Cooper P.C.
1000 Lafayette Boulevard
Bridgeport, CT 06601
For the Defendant

Request granted. So ordered.

s/ Arthur D. Spatt



Arthur D. Spatt, USDJ

8/5/15